UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,162	04/12/2005	Peter Zatloukal	120083-141790	3236

60172   7590   03/17/2010
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH, SUITE 3010
SEATTLE, WA 98101

EXAMINER
ALI, FARHAD

ART UNIT	PAPER NUMBER
2446	

MAIL DATE	DELIVERY MODE
03/17/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/531,162	ZATLOUKAL ET AL.
	Examiner	Art Unit
	FARHAD ALI	2446

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _17 December 2009_.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-3,5-14,16-20,29-31 and 33_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-3,5-14,16-20,29-31 and 33_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on _12 April 2005_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Status of Claims:

Claims 1-3, 5-14, 16-20, 29-31 and 33 are pending in this Office Action.

Claims 1-3, 8-10, 20, and 29 are amended.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1-3, 5-14, 16-20, 29-31 and 33 are rejected under 35 U.S.C. 102(e) as

being anticipated by Donaldson et al. (US Patent 7,272,232 B1) hereinafter Donaldson.

Claim 1

Donaldson teaches in a mobile client device, a method of operation comprising

(Column 2 lines 27-28, "Thus, a need exists for a method of prioritizing and

balancing simultaneous audio outputs in a handheld device"):

first providing, by the mobile client device, a first audio signal at a first audio

volume level to a user, the first audio volume level being selectable by the user

(Column 5 lines 5-10, "FIG. 2 shows a system embodiment of the invention involving two sources, audio source A 200 and audio source B 201");

determining by the mobile client device, the first audio volume level at which the mobile first audio signal is being provided to the user by the mobile client device **(Column 5 lines 31-34, "Referring again to FIG. 2, a priority logic unit 202 is coupled to audio source A 200 and audio source B 201. At a minimum, the priority logic unit 202 is capable of sensing the amplitude and/or presence of each audio source");**

while providing said first audio signal to the user at the first audio volume level, providing, by the mobile client device, to the user a second audio signal at a second audio volume level, the second audio volume level being variable controlled by the mobile client device based on said first audio volume level **(Column 5 lines 37-44, "The priority logic unit 202 is coupled to variable attenuator/amplifier 203 and is also coupled to variable attenuator/amplifier 204. The priority logic unit 202 is furnished with a set of prioritization rules allowing it to control the amount of gain or attenuation that is applied to audio source A 200 by variable attenuator/amplifier 203, and the amount of gain or attenuation that is applied to audio source B 201 by variable attenuator/amplifier 204"),** the second audio volume level being non-intrusively lower than the first audio volume level initially **(Column 5 lines 45-46, "There are many possible prioritization rules that can be used to prioritize the two audio sources" and Column 6 lines 12-16, "For example, if source A is a high priority source (e.g. a telephone ring or other alert tone) and**

source B is a lower priority source (e.g. a music program) then the sound

management system may lower the volume on source B, combine with source A

and output the result"); and

while providing the first and second audio signals, incrementally increasing, by

the mobile client device, the second audio volume level from the initial non-intrusive

lower volume level to a discernable volume level higher than the first audio volume level

(Column 2 lines 58-62, "Upon sensing an increase in amplitude of source B above

a preset threshold level, the attenuation or gain of one or both sources is

adjusted such that a new signal ratio is established between the two sources"),

said incrementally increasing further comprising:

first, increasing the second audio volume level by a first predetermined

increment, second, determining that the user has not responded to the second audio

signal, and third, increasing the second audio volume level by a second predetermined

increment (**Column 5 lines 50-54, "For each possible audio source pair in the**

handheld device, the prioritization rules establish the relative gain applied to the

sources. the absolute levels may be set in relation to a fixed decibel level, or it

may be referenced to the level or presence of one of the sources. Alternatively,

prioritization between a signal event and a continuous source may be dependent

upon the presence of a continuous source, regardless of the immediate sound

level").

Claim 2

Donaldson teaches wherein said determining the first audio volume level

comprises the mobile client device determining a first audio volume level at which the

mobile client device is being utilized by a user for a first audio signal corresponding to

music associated with output of at least one of an MP3 player and a radio included with

the mobile client device **(Column 3 lines 50-63, "In addition to received signals, the

handheld device 100 of FIG. 1A may also be capable of generating signal events

such as an alarm associated with a clock, timer, thermometer, or phone battery

monitor. The device may also have internal audio sources such as speech or

music stored in digital or analog form. Fixed or removable media may include

magnetic, optical, and integrated circuit storage media. The magnetic media may

be used for analog or digital storage. Alternatively, the speech or music material

may be stored on a digital storage medium such as flash memory or random

access memory (RAM). Speech or music may be stored in a variety of formats

such as MP3 for music or Adaptive Differential Pulse Code Modulation (ADPCM)

for speech")**.

Claim 3

Donaldson teaches wherein said second providing the second audio signal

comprises the mobile client device providing the second audio signal corresponding to a

ring tone associated alert for at least a selected one from the group consisting of an

incoming call, a received indication of a text message, a received indication of a

voicemail message, a calendar alert, and a wireless mobile phone system utilities

warning **(Column 5 lines 10-14, "Audio source A 200 and audio source B 201 may**

be either a signal event source or a continuous source. A signal event source is

an audio signal of short duration such as a telephone ring or an alarm").

Claim 5

Donaldson teaches wherein said incrementally increasing comprises

incrementally increasing the second audio volume level to a pre-determined audio

volume level limit above which hearing damage is likely to occur **(Column 2 lines 58-**

62, "Upon sensing an increase in amplitude of source B above a preset threshold

level, the attenuation or gain of one or both sources is adjusted such that a new

signal ratio is established between the two sources" and Column 6 lines 49-52,

"the radio program volume may always be reduced if the user is using a

headphone output in order to prevent possible discomfort from too much

amplification of the telephone").

Claim 6

Donaldson teaches wherein said incrementally increasing comprises

incrementally increasing the second audio volume level by a selected one of a constant

increment and an increasing increment **(Column 5 lines 37-44, "The priority logic**

unit 202 is coupled to variable attenuator/amplifier 203 and is also coupled to

variable attenuator/amplifier 204. The priority logic unit 202 is furnished with a set

of prioritization rules allowing it to control the amount of gain or attenuation that

is applied to audio source A 200 by variable attenuator/amplifier 203, and the

amount of gain or attenuation that is applied to audio source B 201 by variable

attenuator/amplifier 204").

Claim 7

Donaldson teaches wherein said determining comprises the mobile client device

determining the first audio volume level measured as an audio power level **(Column 5**

lines 50-54, "For each possible audio source pair in the handheld device, the

prioritization rules establish the relative gain applied to the sources. the absolute

levels may be set in relation to a fixed decibel level, or it may be referenced to the

level or presence of one of the sources").

Claim 8

Donaldson teaches wherein said determining <u>the first audio volume level</u>

comprises the mobile client device determining the first audio volume level measured as

at least one of volts, watts, and decibels **(Column 5 lines 50-54, "For each possible**

audio source pair in the handheld device, the prioritization rules establish the

relative gain applied to the sources. the absolute levels may be set in relation to a

fixed decibel level, or it may be referenced to the level or presence of one of the

sources").

Claim 9

Donaldson teaches <u>further comprising</u> the mobile client device mixing said first

and second audio signals <u>and providing the first and second audio signals as a mixed</u>

<u>signal, the second audio level begin variably controlled by the mobile client device</u>

<u>based at least in part on said mixed signal.</u> **(Column 5 lines 62-64, "The output of**

variable attenuator/amplifier 203 and variable attenuator/amplifier 204 are coupled

to a mixer 205 that combines the two signals into a single output 206").

Claim 10

Donaldson teaches the wireless mobile phone comprising **(Column 2 lines 27-28, "Thus, a need exists for a method of prioritizing and balancing simultaneous audio outputs in a handheld device")**:

a first audio resource, the first audio resource equipped to provide a first audio signal at a first audio volume level at which the mobile phone is being utilized by a user for the first audio signal, the first audio volume level being selectable by the user **(Column 5 lines 5-10, "FIG. 2 shows a system embodiment of the invention involving two sources, audio source A 200 and audio source B 201")**; and

a second audio resource, wherein the second audio resource is equipped to determine the first audio level at which the first audio signal is being provided to the user by the first audio resource **(Column 5 lines 31-34, "Referring again to FIG. 2, a priority logic unit 202 is coupled to audio source A 200 and audio source B 201. At a minimum, the priority logic unit 202 is capable of sensing the amplitude and/or presence of each audio source")**,

provide a second audio signal at a second audio volume level to the user while the mobile phone is being utilized by the user for the first audio signal at the first audio volume level, the second audio volume level being variably controlled by the second audio resource based on said first audio volume level **(Column 5 lines 37-44, "The priority logic unit 202 is coupled to variable attenuator/amplifier 203 and is also coupled to variable attenuator/amplifier 204. The priority logic unit 202 is furnished with a set of prioritization rules allowing it to control the amount of gain**

or attenuation that is applied to audio source A 200 by variable

attenuator/amplifier 203, and the amount of gain or attenuation that is applied to

audio source B 201 by variable attenuator/amplifier 204"), the second audio volume

level being non-intrusively lower than the first audio volume level initially **(Column 5**

lines 45-46, "There are many possible prioritization rules that can be used to

prioritize the two audio sources" and Column 6 lines 12-16, "For example, if

source A is a high priority source (e.g. a telephone ring or other alert tone) and

source B is a lower priority source (e.g. a music program) then the sound

management system may lower the volume on source B, combine with source A

and output the result"),

while the first and second audio signals are being provided, incrementally

increase the second audio volume level from the initial non-intrusive volume level to a

discernable volume level higher than the first audio volume level **(Column 2 lines 58-**

62, "Upon sensing an increase in amplitude of source B above a preset threshold

level, the attenuation or gain of one or both sources is adjusted such that a new

signal ratio is established between the two sources"), the second audio resource

equipped to incrementally increase the second audio volume level by first, increasing

the second audio volume level by a first predetermined increment, second, determining

that the user has not responded to the second audio signal, and third, increasing the

second audio volume level by a second predetermined increment **(Column 5 lines 50-**

54, "For each possible audio source pair in the handheld device, the prioritization

rules establish the relative gain applied to the sources. the absolute levels may

be set in relation to a fixed decibel level, or it may be referenced to the level or

presence of one of the sources. Alternatively, prioritization between a signal

event and a continuous source may be dependent upon the presence of a

continuous source, regardless of the immediate sound level"), and terminate the

second audio signal preventing the second audio signal from intruding on the first audio

signal in response to a user action **(Column 5 lines 16-20, "A continuous source is**

an audio source with a typically longer duration than a signal event source, and is

usually not dependent upon an external event, but is selected arbitrarily by the

user").

Claim 11

Donaldson teaches wherein the first audio resource comprises at least one of an

MP3 player and a radio **(Column 3 lines 50-63, "In addition to received signals, the**

handheld device 100 of FIG. 1A may also be capable of generating signal events

such as an alarm associated with a clock, timer, thermometer, or phone battery

monitor. The device may also have internal audio sources such as speech or

music stored in digital or analog form. Fixed or removable media may include

magnetic, optical, and integrated circuit storage media. The magnetic media may

be used for analog or digital storage. Alternatively, the speech or music material

may be stored on a digital storage medium such as flash memory or random

access memory (RAM). Speech or music may be stored in a variety of formats

such as MP3 for music or Adaptive Differential Pulse Code Modulation (ADPCM)

for speech").

Claim 12
Donaldson teaches wherein the second audio resource comprises an audio resource equipped to receive a delivery of a message alert to the user **(Column 6 lines 12-16, "For example, if source A is a high priority source (e.g. a telephone ring or other alert tone) and source B is a lower priority source (e.g. a music program) then the sound management system may lower the volume on source B, combine with source A and output the result")**.

Claim 13
Donaldson teaches wherein the second audio resource comprises a ring tone generator **(Column 5 lines 10-14, "Audio source A 200 and audio source B 201 may be either a signal event source or a continuous source. A signal event source is an audio signal of short duration such as a telephone ring or an alarm")**.

Claim 14
Donaldson teaches wherein the second audio resource is equipped to receive a delivery of a message alert for at least a selected one from the group consisting of an incoming call, a received indication of a text message, a received indication of a voicemail message, a calendar alert, and a wireless mobile phone system utilities warning **(Column 5 lines 10-14, "Audio source A 200 and audio source B 201 may be either a signal event source or a continuous source. A signal event source is an audio signal of short duration such as a telephone ring or an alarm")**.

Claim 16

Donaldson teaches wherein the second audio resource is equipped to incrementally increase the second audio volume level to a pre-determined audio volume level limit above which hearing damage is likely to occur **(Column 2 lines 58-62, "Upon sensing an increase in amplitude of source B above a preset threshold level, the attenuation or gain of one or both sources is adjusted such that a new signal ratio is established between the two sources" and Column 6 lines 49-52, "the radio program volume may always be reduced if the user is using a headphone output in order to prevent possible discomfort from too much amplification of the telephone")**.

Claim 17

Donaldson teaches wherein second audio resource is equipped to incrementally increase the second audio volume level by a selected one of a constant increment and an increasing increment **(Column 5 lines 37-44, "The priority logic unit 202 is coupled to variable attenuator/amplifier 203 and is also coupled to variable attenuator/amplifier 204. The priority logic unit 202 is furnished with a set of prioritization rules allowing it to control the amount of gain or attenuation that is applied to audio source A 200 by variable attenuator/amplifier 203, and the amount of gain or attenuation that is applied to audio source B 201 by variable attenuator/amplifier 204")**.

Claim 18

Donaldson teaches wherein the first and second audio volume levels are measured as audio power levels **(Column 5 lines 50-54, "For each possible audio**

source pair in the handheld device, the prioritization rules establish the relative

gain applied to the sources. the absolute levels may be set in relation to a fixed

decibel level, or it may be referenced to the level or presence of one of the

sources").

Claim 19

Donaldson teaches wherein the audio power levels are measured in at least one

of volts, watts, and decibels **(Column 5 lines 50-54, "For each possible audio source**

pair in the handheld device, the prioritization rules establish the relative gain

applied to the sources. the absolute levels may be set in relation to a fixed

decibel level, or it may be referenced to the level or presence of one of the

sources").

Claim 20

Donaldson teaches further comprising a mixer, the mixer equipped to mix the first

and second audio signals, the second audio resource being further equipped to variably

control the second audio volume level based at least in part on the mixed signal.

(Column 5 lines 62-64, "The output of variable attenuator/amplifier 203 and

variable attenuator/amplifier 204 are coupled to a mixer 205 that combines the

two signals into a single output 206").

Claim 29

Donaldson teaches the mobile client device comprising **(Column 2 lines 27-28,**

"Thus, a need exists for a method of prioritizing and balancing simultaneous

audio outputs in a handheld device"):

a storage medium having stored therein a plurality of programming instructions, which when executed, the instructions cause the mobile client device to **(Column 4 lines 4-11, "Computer system 100 includes a central processor 101 coupled with the bus 99 for processing information and instructions, a volatile memory 102 (e.g., random access memory RAM) coupled with the bus 99 for storing static information and instructions for the central processor 101 and a non-volatile memory 103 (e.g., read only memory ROM) coupled with the bus 99 for storing static information and instructions for the processor 101")** first provide a primary audio signal at a first audio volume to a user, the primary audio volume level being selectable by the user **(Column 5 lines 5-10, "FIG. 2 shows a system embodiment of the invention involving two sources, audio source A 200 and audio source B 201"),**

determine the primary audio volume level at which the primary audio signal is being provided to the user **(Column 5 lines 31-34, "Referring again to FIG. 2, a priority logic unit 202 is coupled to audio source A 200 and audio source B 201. At a minimum, the priority logic unit 202 is capable of sensing the amplitude and/or presence of each audio source"),** and

while said primary audio signal is being provided to the user at the first audio volume level, provide a secondary audio signal at a second audio volume level to the user, the second audio volume level being variably controlled by the mobile client device based on said first audio volume level **(Column 5 lines 37-44, "The priority logic unit 202 is coupled to variable attenuator/amplifier 203 and is also coupled**

to variable attenuator/amplifier 204. The priority logic unit 202 is furnished with a

set of prioritization rules allowing it to control the amount of gain or attenuation

that is applied to audio source A 200 by variable attenuator/amplifier 203, and the

amount of gain or attenuation that is applied to audio source B 201 by variable

attenuator/amplifier 204"), the second audio volume level being non-intrusively lower

than the first audio volume level initially **(Column 5 lines 45-46, "There are many**

possible prioritization rules that can be used to prioritize the two audio sources"

and Column 6 lines 12-16, "For example, if source A is a high priority source (e.g.

a telephone ring or other alert tone) and source B is a lower priority source (e.g. a

music program) then the sound management system may lower the volume on

source B, combine with source A and output the result"), and

while the mobile client device provides the <u>primary</u> and secondary audio signals,

incrementally increase the secondary audio volume level from the initial non-intrusive

volume level to a discernable volume level higher than the first audio volume level

(Column 2 lines 58-62, "Upon sensing an increase in amplitude of source B above

a preset threshold level, the attenuation or gain of one or both sources is

adjusted such that a new signal ratio is established between the two sources")

<u>by:</u>

<u>first, increasing the second audio volume level by a first predetermined</u>

<u>increment, second, determining that the user has not responded to the second audio</u>

<u>signal, and third, increasing the second audio volume level by a second predetermined</u>

<u>increment</u> **(Column 5 lines 50-54, "For each possible audio source pair in the**

handheld device, the prioritization rules establish the relative gain applied to the

sources. the absolute levels may be set in relation to a fixed decibel level, or it

may be referenced to the level or presence of one of the sources. Alternatively,

prioritization between a signal event and a continuous source may be dependent

upon the presence of a continuous source, regardless of the immediate sound

level")**; and

a processor coupled to the storage medium to execute the programming

instructions **(Column 4 lines 4-11, "Computer system 100 includes a central

processor 101 coupled with the bus 99 for processing information and

instructions").**

Claim 30

Donaldson teaches wherein the primary audio signal corresponds to music

associated with output of at least one of an MP3 player and a radio included with the

mobile client device **(Column 3 lines 50-63, "In addition to received signals, the

handheld device 100 of FIG. 1A may also be capable of generating signal events

such as an alarm associated with a clock, timer, thermometer, or phone battery

monitor. The device may also have internal audio sources such as speech or

music stored in digital or analog form. Fixed or removable media may include

magnetic, optical, and integrated circuit storage media. The magnetic media may

be used for analog or digital storage. Alternatively, the speech or music material

may be stored on a digital storage medium such as flash memory or random

access memory (RAM). Speech or music may be stored in a variety of formats**

such as MP3 for music or Adaptive Differential Pulse Code Modulation (ADPCM) for speech").

Claim 31

Donaldson teaches wherein the secondary audio signal corresponds to a ring tone associated alert for at least a selected one from the group consisting of an incoming call, a received indication of a text message, a received indication of a voicemail message, a calendar alert, and a wireless mobile phone system utilities warning, and the programming instructions are further configured to terminate the secondary audio signal preventing the secondary audio signal from intruding on the primary audio signal in response to an user action **(Column 5 lines 10-14, "Audio source A 200 and audio source B 201 may be either a signal event source or a continuous source. A signal event source is an audio signal of short duration such as a telephone ring or an alarm")**.

Claim 33

Donaldson teaches wherein the primary audio volume level is measured as an audio power level **(Column 5 lines 50-54, "For each possible audio source pair in the handheld device, the prioritization rules establish the relative gain applied to the sources. the absolute levels may be set in relation to a fixed decibel level, or it may be referenced to the level or presence of one of the sources")**.

Response to Arguments

3.   Applicant's arguments filed 12/17/2009 have been fully considered but they are

not persuasive.

The applicant has argued that Donaldson does not teach "incrementally

increasing.., the second audio volume level from the initial non-intrusive level to a

discernable volume level higher than the first audio volume level" and that the "volume

ratio for the two signals remains constant for as long as the rule is applied".

The examiner respectfully disagrees and would like to draw attention to column 2

lines 52-62 of Donaldson which teaches "In one embodiment of the present invention,

two audio sources A and B are sensed by a priority logic unit. Source A is a continuous

audio source and source B is either a continuous audio source or a signal event audio

source. The two sources are combined into a single output with each source having a

predetermined level of attenuation or gain and thus a predetermined signal level ratio.

Upon sensing an increase in amplitude of source B above a preset threshold level, the

attenuation or gain of one or both sources is adjusted such that a new signal ratio is

established between the two sources". Since it is possible for a new signal ratio to be

established as taught by Donaldson the applicant's arguments are not persuasive.

The applicant has further argued that Donaldson does not teach "said

incrementally increasing further comprising: first, increasing the second audio volume

level by a first predetermined increment, second, determining that the user has not

responded to the second audio signal, and third, increasing the second audio volume

level by a second predetermined increment."

The examiner respectfully disagrees. Donaldson teaches in Column 5 lines 50-

54, "For each possible audio source pair in the handheld device, the prioritization rules

establish the relative gain applied to the sources. the absolute levels may be set in

relation to a fixed decibel level, or it may be referenced to the level or presence of one

of the sources. Alternatively, prioritization between a signal event and a continuous

source may be dependent upon the presence of a continuous source, regardless of the

immediate sound level". The examiner asserts that the presence of a source

constitutes a determination of the users response to the audio signal, as once a user

responds to the signal it will become inactive (Col 6 lines 35-38). In response to the first

and second predetermined increment, the examiner asserts that the example in column

2 lines 52-62 as cited above teaches such limitations as one audio source can be

initially incremented according to a predetermined signal ratio (lines 55-58), and

afterwards the attenuation or gain of one or both sources is adjusted such that a new

signal ratio is established (lines 60-62), indicating a different second increment.

Conclusion

4.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to FARHAD ALI whose telephone number is (571)270-

1920. The examiner can normally be reached on Monday thru Friday, 7:30am to

5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jeffrey C. Pwu can be reached on (571) 272-6798. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Farhad Ali/
Examiner, Art Unit 2446

/Jeffrey Pwu/
Supervisory Patent Examiner, Art Unit 2446